



JFW

PATENT APPLICATION  
PO-8004  
LeA 36,450

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICATION OF )  
HANS-JÜRGEN NOLTE ET AL ) GROUP NO.: 1711  
SERIAL NUMBER: 10/789,026 ) EXAMINER: R. SERGENT  
FILED: FEBRUARY 25, 2004 )  
TITLE: PROCESS AND APPARATUS FOR )  
THE PRODUCTION OF A TWO- )  
COMPONENT COATING MIXTURE )

**RESPONSE UNDER 37 CFR 1.143**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Office Action dated September 28, 2005, has been received and the following is in response thereto.

Restriction to one of the following inventions has been required under 35 USC 121:

- I. Claims 1-9, 23-26 and 60-67, drawn to a process, classified in Class 524, subclass 591; and
- II. Claims 10-22 and 27-59, drawn to an apparatus, classified in Class 366, subclass 136.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria VA 22313-1450 10/26/05  
Date

Thomas W. Roy, Reg. No. 29,582  
Name of applicant, assignee or Registered Representative

Thomas W. Roy  
Signature  
October 26, 2005  
Date

The Examiner contends that the Group I and II inventions are related as process and apparatus for its practice and has relied upon MPEP 806.05(e), which requires one-way distinctness, to determine if the restriction requirement is proper. In order to demonstrate one-way distinctness the Examiner contends that the process as claimed can be practiced by another and materially different apparatus, such as one where the mixer and homogenizer are not connected by a conduit or one where the product to be re-homogenized is introduced to the homogenizer manually or by hand.

In accordance with 37 CFR 1.143 the Applicants provisionally elect, without traverse, to prosecute the Group I invention, containing Claims 1-9, 23-26 and 60-67.

The foregoing is believed to be a complete response to the Office Action dated September 28, 2005. An early action on the merits is respectfully requested.

Respectfully submitted,

By Thomas W. Roy  
Thomas W. Roy  
Attorney for Applicants  
Reg. No. 29,582

Bayer MaterialScience LLC  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3820  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
s:\shared\kgb\twr061resp